

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA**

IN RE:

David Anthony Malatesta, II and Victoria
Diane Malatesta

Debtor(s).

C/A No. 15-02925-dd

Chapter 13

**SETTLEMENT ORDER
ON
MOTION FOR RELIEF FROM
AUTOMATIC STAY**

This matter comes before the Court on the motion for relief from the automatic stay filed by U.S. Bank National Association, not in its individual capacity but solely as Trustee for RMAC Trust, Series 2016-CTT ("Movant"). Movant has waived any claim arising under 11 U.S.C. § 503(b) or § 507(b) and, in the event relief from the automatic stay is granted due to Debtor(s)' default under the terms of this settlement order, agreed that any funds realized from the disposition of its collateral in excess of all liens, costs, and expenses will be paid to the trustee or bankruptcy estate. The chapter 13 trustee did not object to the motion or has agreed to the settlement. The property serving as collateral which is the subject of the motion is described as follows:

191 Adams Jones Bridge Road, Salley, SC 29137

As of December 18, 2017, Debtor has accrued a post petition arrearage in the amount of \$2,919.92. The post petition arrearage consists of:

- Payments for the month(s) of September 1, 2017 to December 1, 2017 in the amount of \$472.23 per month.
- Attorney's fees and costs in the amount of \$1,031.00.

Upon Movant's certification of the agreement of the parties, it is hereby ORDERED:

Debtor shall continue to remit to Movant the regular post petition monthly payments beginning January 1, 2018, and continuing thereafter in accordance with the terms of the loan agreement and the chapter 13 plan.

In addition to the regular post petition monthly payment set forth above, Debtor shall cure the post petition arrearage of \$2,919.92 as follows:

- Pay \$235.92 per month beginning February 1, 2018 for 11 months.
- Pay final payment of \$235.93 by January 1, 2019.
- Movant will credit the suspense balance in the amount of \$88.87.

Failure to make a payment within 20 days from its due date shall be considered a default under the terms of this settlement order.

Payments shall be paid directly to Movant at:

BSI Financial Services
P.O. Box 679002
Dallas, TX 75267

In the event of a default under the terms of this Order, relief from stay may be provided without further hearing upon the filing of an affidavit of default by Movant and the entry of the proposed order by the Court. Movant may then proceed with its state court remedies against the collateral, including sending any required notice to Debtor(s). This *ex parte* provision shall expire and no longer be effective 24 months from the entry of this order.

AND IT IS SO ORDERED.

**FILED BY THE COURT
12/21/2017**



Entered: 12/21/2017

David R. Duncan
Chief US Bankruptcy Judge
District of South Carolina

WE SO MOVE AND CONSENT:

/s/Jason D Wyman
Attorney for Movant
District Court I.D. 11294

/s/ Robert R. Meredith
Attorney for Debtor
District Court I.D. 6152

CERTIFICATION:

Debtor's counsel represents that prior to consenting to this settlement order, the payment obligations set forth in this Order, including the amounts, method, and timing of payments, and consequences of default were reviewed with and agreed to by the Debtor(s) or the party obligated to pay.

/s/ Robert R. Meredith
Attorney for Debtor
District Court I.D. 6152